IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 15TH JANUARY 2007 / 25TH PAUSHA 1928

WP(C).No. 5937 of 2006(F)

PETITIONER:

MOHANDAS, AGED 64 YEARS, S/O.RAMAN,
KATTIKULAM HOUSE, EDATHIRUTHY VILLAGE,
DESOM, KODUNGALLUR TALUK, THRISSUR DISTRICT.

BY ADV. SRI.N.K.SUBRAMANIAN
SRI.S.ANANTHAKRISHNAN
SRI.RAJIT

RESPONDENTS:
----

1. THE REVENUE DIVISIONAL OFFICER,
THRISSUR, COLLECTORATE, AYYANTHOLE, THRISSUR.

2. THE TAHSILDAR, KODUNGALLUR TALUK,
KODUNGALLUR, THRISSUR.

3. THE TALUK SURVEYOR, KODUNGALLUR TALUK,
KODUNGALLUR THRISSUR.

4. M.K.GUNAVARDHANAN, S/O.MUNAPPIL KOCHU
MAMMAN, EATHIRUTHY VILLAGE, KODUNGALLUR TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.P.RAVINDRAN
GOVT.PLEADER, I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

W.P.(C)No.5937 OF 2006

Dated this the 15th day of January, 2007

J U D G M E N T

Heard the learned counsel appearing for the petitioner, counsel appearing for the 4th respondent and Government Pleader.

2. Prayer in the writ petition is for a direction to the 3rd respondent to conduct the survey of the property of the petitioner and issue a survey sketch on the basis of Ext.P2 representation.

3. Learned counsel for the 4th respondent submits that there is a dispute on boundary and therefore a surveyor cannot settle the dispute. Suit is stated to be pending between the 4th respondent and the petitioner. Even though Civil Court is the ultimate authority to declare the rights of property, I do not think the pendency of the suit will bar the survey authorities from discharging their duties under the statute. The survey necessarily has to be conducted in the presence of the 4th respondent, the neighbouring owners of the petitioner's property and the petitioner. The 3rd respondent is directed to

conduct a survey after issuing notice to the petitioner and the 4th respondent. Since there is allegation of encroachment of puramboke land, he will issue notice to the Village Officer and conduct survey in the presence of all concerned, prepare a report and give copy of it to the petitioner and also to the 4th respondent on receipt of the charges payable under Act . However dispute about possession and ownership, will be settled by the Civil Court. The 3rd respondent will complete the survey and prepare report before 28.2.2007. If there is encroachment of puramboke land by any party, it is for the revenue authorities to take appropriate action under the Land Conservancy Act based on complaint and survey report through suo moto proceedings.

(C.N.RAMACHANDRAN NAIR,
JUDGE)

ps